IN THE HIGH COURT OF UTTARANCHAL,

AT NAINITAL

Criminal Misc. Application No. 634 of 2006

Aslam S/o Yakub
R/o Village Salempur
P.S. Ranipur
District Haridwar ...Applicant

Vs

1. State of Uttaranchal through Secretary Home
2. First Additional Chief Judicial Magistrate, Haridwar
3. Akhlak S/o Ynus
4. Sajjad S/o Mumtaj
5. Ahsan S/o Sajjad
6. Wahab S/o Yandu
7. Sajid S/o Mumtaj
   Respondents No. 3 to 7 all
   R/o Village Salempur
   P.S. Ranipur
   District Haridwar ....Respondents

Sri Lalit Tiwari, learned counsel for the petitioner
Learned A.G.A. for the State

Hon'ble B.C. Kandpal, J.

This petition under Section 482 Cr.P.C. has been filed by the applicant, who is the complainant in Case No. 12 of 2006.

2. Brief facts giving rise to this petition are that the complaint under Sections 34, 323, 324, 452 I.P.C. was filed before the court of Chief Judicial Magistrate, Haridwar. The court after having perused the complaint and the material available in support of the complaint directed that the complaint was devoid of any force, hence dismissed the complaint. Thereafter, a revision was filed. The revision was allowed by the District Judge, Haridwar with the direction that the Magistrate should decide the complaint on the basis of the allegations made therein as well as the medical report filed in support to the complainant's case.

3. The learned Magistrate, therefore considered the matter at length and after having considered the entire material available on record again came to the conclusion that the complaint is devoid of any merit and the learned Magistrate dismissed the same.

4. Feeling aggrieved by the aforesaid order, the petition under Section 482 Cr.P.C. has been preferred by the complainant.

5. Having considered the arguments advanced by the learned counsel for the petitioner, I am of the view that there is no abuse of process of court. I am not supposed to embark upon an enquiry with regard to the credibility of the evidence at this stage. Any judgment rendered by me at this stage would amount to premature judgment where the evidence is still incomplete and hazy.

6. The impugned order itself shows that there is a cross-case and the opposite party have also lodged a complaint against the complainant. Therefore, under these circumstances, if I make any observation on the merit of the case that will prejudice the trial.

7. Therefore, the petition lacks merit and is liable to be dismissed.

8. Accordingly, the petition under Section 482 Cr.P.C. is dismissed.

(B.C. Kandpal, J.)

05-08-2006